IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23125 of 2004

Between:

M/s Meenakshi Finance Corporations, Vijayanagar Colony, Hyderabad, rep by its Manager U.Bhaskar, Son of Shivaiah
R/o.Pargi, Ranga Reddy District.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition and Excise Hyderabad, Hyderabad Division, Nampally, Hyderabad.
2 The Station House Officer, Pargi Police Station, Pargi, Ranga Reddy District.
3 Mohammed Ahmed S/o. Mohamed Yousuf
Near Rice Mill, Shantinagar, Pargi, R.R. District
4 K.Kistaiah, S/0 K. Narsaiah, Owner of auto, R/o Pargi, R.R.District.

(The third and the fourth respondents were impleaded as per the orders of this Court in W.P.M.P.No. 30789 of 2004 dated 23.12.2004 and W.P.M.P.No.31446 of 2004 dated 28.12.2004 respectively.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order, direction more particularly a writ in the nature of writ of Mandamus directing the respondents to release the Auto bearing No.AP 09 DQ-T/R 3076 seized in Crime No.91/2004.

Counsel for the Petitioner:MR.A.RAVI SHANKAR

Counsel for the Respondent Nos.1 and 2: GP FOR PROHIBITION & EXCISE

Counsel for the Respondents No.3 and 4: None appeared

The Court at the stage of admission made the following ORDER:

Petitioner claims to have financed the purchase of the vehicle bearing No. AP 09 DQ-T/R 3067 by the fourth respondent. The said vehicle is said to have been seized by the second respondent on the ground that it was used in transporting the liquor. Proceedings under relevant provisions of the A.P. Excise Act were initiated before the first respondent. The petitioner claims to have made an application before the first respondent for release of the vehicle and states that though several months have elapsed, no orders have been passed thereon.

Heard learned counsel for the petitioner and learned Government Pleader for Prohibition & Excise.

Even before the vehicle could be registered, it is alleged to have been used in transporting the liquor. The truth or otherwise of the allegations against the owner or the user of the vehicle needs to be considered in the proceedings pending before the first respondent. The continued detention of the vehicle does not sub-serve the purposes either of the Department or of the owner, much less, the financier. The petitioner claims to have made an application before the first respondent several months back.

Taking the totality of the circumstances into account, the writ petition is disposed of directing that the first respondent shall release the vehicle referred to above to the petitioner, on its furnishing bank guarantee for a sum of Rs.5,000/- (Rupees Five thousand only). It is made clear that the release of the vehicle in favour of the petitioner shall be without any prejudice to the rights of the fourth respondent. No order as to costs.

28.12.2004

ksld

To

1 The Deputy Commissioner of Prohibition and Excise Hyderabad, Hyderabad Division, Nampally, Hyderabad.
2 The Station House Officer, Pargi Police Station, Pargi, Ranga Reddy District.
3 Two CCs to the Government Pleader for Prohibition & Excise, A.P.High Court Buildings, Hyderabad (OUT)

4 Two CD copies.